

House Bill 6

By: Representatives Franklin of the 43rd and Reese of the 98th

A BILL TO BE ENTITLED

AN ACT

To amend Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to carrying and possession of firearms, so as to prohibit certain confiscation or registration of legally owned and carried firearms during certain emergency conditions; to provide for exceptions; to provide for civil penalties; to amend Code Section 38-3-51 of the Official Code of Georgia Annotated, relating to the emergency powers of the Governor, so as to limit the Governor's emergency powers with respect to firearms; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 3 of Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to carrying and possession of firearms, is revised by adding a new Code section at the end thereof, to be designated Code Section 16-11-135, to read as follows:

"16-11-135.

(a) No officer or employee of the state or any political subdivision thereof, member of the National Guard in the service of the state, or any person operating pursuant to or under color of state law, receiving state funds, under control of any official of the state or political subdivision thereof, or providing services to such officer, employee, or other person, while acting during a declared official state of emergency, may:

(1) Temporarily or permanently seize, or authorize seizure of, any firearm the possession of which is not prohibited under Article 4 of Chapter 11 of this title, other than as evidence in a criminal investigation;

(2) Require registration of any firearm for which registration is not required by Article 4 of Chapter 11 of this title;

(3) Prohibit possession of any firearm, or promulgate any rule, regulation, or order prohibiting possession of any firearm, in any place or by any person where such possession is not otherwise prohibited by Article 4 of Chapter 11 of this title; or

(4) Prohibit the carrying of firearms by any person otherwise authorized to carry firearms under Article 4 of Chapter 11 of this title, solely because such person is operating under the direction, control, or supervision of an agency of the state or political subdivision thereof during a declared official state of emergency.

(b) Any individual aggrieved by a violation of this Code section may seek in the courts of this state relief in an action at law or in equity or other proper proceeding for redress against any person who subjects such individual, or causes such individual to be subjected, to the deprivation of any of the rights, privileges, or immunities provided by this Code section.

(c) In addition to any other remedy at law or in equity, an individual aggrieved by the seizure or confiscation of a firearm in violation of this Code section may bring an action for return of such firearm in the superior court of the county in which that individual resides or in which such firearm is located. In any action or proceeding to enforce this Code section, the court shall award the prevailing party, other than the state or political subdivision thereof, reasonable attorneys' fees."

SECTION 2.

Code Section 38-3-51 of the Official Code of Georgia Annotated, relating to the emergency powers of the Governor, is amended by revising paragraph (8) of subsection (d) as follows:

"(8) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, ~~firearms~~, explosives, and combustibles; ~~provided, however, that any limitation on firearms under this Code section shall not include an individual firearm owned by a private citizen which was legal and owned by that citizen prior to the declaration of state of emergency or disaster or thereafter acquired in compliance with all applicable laws of this state and the United States; and~~"

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.